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AUG 29 2005

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Clerk  
District Court  
for The Northern Mariana Islands

6 Attorneys for Defendants  
7 American Overseas Marine Corporation  
and General Dynamics Corporation

8 UNITED STATES DISTRICT COURT

9 FOR THE

10 NORTHERN MARIANA ISLANDS

11 KENNETH COUTURE,

12 CIVIL ACTION NO. CV05-0024

13 Plaintiff,

14 vs.

15 DEFENDANTS' ANSWER TO  
16 COMPLAINT AND DEMAND FOR  
17 JURY TRIAL; CERTIFICATE OF  
18 SERVICE

19 AMERICAN OVERSEAS MARINE  
20 CORPORATION and GENERAL  
DYNAMICS CORPORATION,

Defendants.

21 1. Defendants have insufficient knowledge to either admit or deny Plaintiff's  
22 allegations that he resides and is domiciled on Saipan.

23 2. Defendants acknowledge Section 33 of the Merchant Seaman's Act and general  
24 maritime law but deny plaintiff is entitled to any recovery in this action.

25 3. Defendant American Overseas Marine Corporation (AMSEA) admits only that it  
26 is a lawfully existing entity, the ship-operating segment of General Dynamics Marine Systems,  
27 and that the company operates and manages maritime prepositioning ships.

28 4. Defendant General Dynamics admits only that it is a lawfully existing entity and  
that its relationship to AMSEA is described above in paragraph 3.

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EXHIBIT

5

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1       5. Defendants have no response to the "John Doe" allegations.

2       6. Defendants have insufficient knowledge to either admit or deny the Court has  
3 personal jurisdiction over the Plaintiff.

4       7. Defendant deny the allegations of paragraph 7.

5       8. Defendants deny the allegations of paragraph 8.

6       9. The Court's jurisdiction over this action is a matter of law.

7       10. Defendants deny the allegations of paragraph 10.

8       11. Defendants deny the allegations of paragraph 11.

9       12. Defendants deny the allegations of paragraph 12.

10      13. Defendants deny the allegations of paragraph 13.

11      14. Defendants admit the allegations of paragraph 14, except with regard to the  
12 present location of the vessel.

13      15. Defendants admit Plaintiff's status as a "QMED" on the vessel.

14      16. Defendants admit that if plaintiff performed his duties properly, he contributed to  
15 the operation of the vessel.

16      17. Defendants admit only that plaintiff sustained an injury while on board the vessel.

17      18. Defendants admit only that the job plaintiff was assigned to do required  
18 installation of a pipe which was stored on board the vessel.

19      19. Defendants admit only that the job plaintiff was assigned to do required  
20 installation of a pipe which was stored on board the vessel.

21      20. Defendants admit only that the job plaintiff was assigned to do required  
22 installation of a pipe which was stored on board the vessel.

23      21. Defendants deny the allegations of paragraph 21.

24      22. Defendants deny the allegations of paragraph 22.

1           23. Defendants deny the allegations of paragraph 23.

2           24. Defendants deny the allegations of paragraph 24.

3           25. Defendants admit the vessel's medical officer treated plaintiff for an injury, but  
4 deny the remaining allegations of paragraph 25.

5           26. Defendants have insufficient knowledge to either admit or deny the allegations of  
6 paragraph 26.

7           27. Defendants admit plaintiff received shore-side medical treatment but deny the  
8 remaining allegations of paragraph 27.

9           28. Defendants admit plaintiff received shore-side medical treatment from Dr.  
10 Landstrom but are unable to admit or deny the remaining allegations of paragraph 28.

11          29. Defendants admit plaintiff received shore-side medical treatment from Dr.  
12 Landstrom but are unable to admit or deny the remaining allegations of paragraph 29.

13          30. Defendants admit plaintiff received shore-side medical treatment but are unable to  
14 admit or deny the remaining allegations of paragraph 30.

15          31. Defendants admit plaintiff received shore-side medical treatment from Dr.  
16 Landstrom, returned to work, and subsequently sought additional medical treatment, but are  
17 unable to admit or deny the remaining allegations of paragraph 31.

18          32. Defendants admit plaintiff received shore-side medical treatment from Dr.  
19 Landstrom but are unable to admit or deny the remaining allegations of paragraph 32.

20          33. Defendants admit plaintiff received shore-side medical treatment but are unable to  
21 admit or deny the remaining allegations of paragraph 33.

22          34. Defendants admit plaintiff received shore-side medical treatment for an injury to  
23 his finger, but deny the finger has been "rendered useless."

24          35. Defendants deny the allegations of paragraph 35.

36. Defendants incorporate by reference the answers to paragraphs 1-35.

37. Defendants deny the allegations of paragraph 37.

38. Defendants admit certain duties are owed to persons performing work on board the vessel and, with respect to plaintiff, deny any such duty was breached.

39. Defendants admit certain duties are owed to persons performing work on board the vessel and, with respect to plaintiff, deny any such duty was breached.

40. Defendants admit certain duties are owed to persons performing work on board the vessel and, with respect to plaintiff, deny any such duty was breached.

41. Defendants admit certain duties are owed to persons performing work on board the vessel and, with respect to plaintiff, deny any such duty was breached.

42. Defendants deny the allegations of paragraph 42.

43. Defendants deny the allegations of paragraph 43.

44. Defendants deny the allegations of paragraph 44.

45. Defendants deny the allegations of paragraph 45.

46. Defendants deny the allegations of paragraph 46.

47. Defendants incorporate by reference the answers

48. Defendants deny the allegations of paragraph 48.

## DEFENSES

1. The complaint fails to state a claim upon which relief may be granted.

2. Plaintiff is barred from maintaining this action against his employer and the vessel because he was not a Jones Act seaman at the time of the alleged incident.

3. Plaintiffs injuries were either caused or contributed to by Plaintiffs own negligence and comparative fault thus barring or reducing Plaintiff's claims and damages

1 accordingly.

2       4. Plaintiffs injuries were either caused or contributed to by third persons over  
3 whom Defendants have no control or right of control, thus barring this action against Defendants.  
4

5       5. Plaintiffs damages, if any, were caused by solely by the negligent superseding  
6 acts of the Plaintiff and/or other persons and circumstances over which Defendant had no control  
7 or right of control.

8       6. Plaintiff has failed to mitigate his alleged damages and has failed to take  
9 reasonable steps to avoid the consequences of his alleged injury.

10      7. Defendants intend to rely upon the defenses of waiver, estoppel, unclean hands,  
11 statute of limitations and assumption of risk.  
12

13      8. Plaintiff has failed to exhaust administrative remedies.

14      9. The vessel was seaworthy at all times

15      10. Defendants further defenses include all those allowed by federal and local statutes  
16 and applicable common law, which may become apparent as discovery is conducted.

17       WHEREFORE, Defendants request the Court to dismiss the action, award attorneys' fees  
18 and costs of defense to Defendants, and grant Defendants additional relief as may be appropriate  
19 in the circumstances.

20       DATED: Capitol Hill, Saipan, August 29, 2005.

21      CARLSMITH BALL LLP



22      DAVID LEDGER  
23      JOHN D. OSBORN  
24      Attorneys for Defendants  
25      American Overseas Marine Corporation  
26      and General Dynamics Corporation  
27  
28

1                   CERTIFICATE OF SERVICE

2                   The undersigned hereby certifies that on the 29th day of August 2005, I will cause to be  
3 served, via hand delivery, a true and correct copy of **DEFENDANTS' ANSWER TO**  
4 **COMPLAINT and DEMAND FOR JURY TRIAL** upon the following Counsels of record:

5                   William M. Fitzgerald, Esq.  
6                   Law Office of William M. Fitzgerald  
7                   1st Floor, Macaranas Building  
8                   Post Office Box 909  
Saipan, MP 96950

9                   and

10                  Bruce Berline, Esq.  
11                  Law Office of Bruce Berline  
12                  1st Floor, Macaranas Building  
Post Office Box 5682 CHRB  
Garapan, Saipan MP 96950

13                  DATED: Capitol Hill, Saipan, August 29, 2005.

14                    
15                  JOHN D. OSBORN